

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)		Docket Number (Optional) 4615
 First Named Inventor: Robert Rascon Application Number: 10/668,712 Filed: 09/23/2003 Title: Retention Apparatus and Method For Stabilizing Concrete Forms Attention: Office of Petitions Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450 NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282. The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained. APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION. NOTE: A grantable petition requires the following items: (1) Petition fee. (2) Reply and/or issue fee. (3) Terminal disclaimer with disclaimer fee-required for all utility and plant applications filed before June 8, 1995, and for all design applications; and (4) Adequate showing of the cause of unavoidable delay. 1. Petition fee <input checked="" type="checkbox"/> Small entity – fee \$55.00 (37 CFR 1.17(l)). Applicant claims small entity status. See 37 CFR 1.27. <input type="checkbox"/> Other than small entity – fee \$ (37 CFR 1.17(l)). 2. Reply and/or fee A The reply and/or fee to the above-noted Office action in the form of <u>Payment of Issue Fee</u> (identify the type of reply): <input type="checkbox"/> has been filed previously on _____ <input checked="" type="checkbox"/> is enclosed herewith. B The issue fee of \$ <u>700.00</u> <input type="checkbox"/> has been filed previously on _____ <input checked="" type="checkbox"/> is enclosed herewith.		

[Page 1 of 3]

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☒ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$110.00 for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

John J. Leavitt
Signature

06/11/2006

Date

John J. Leavitt

Typed or printed name

18,440

Registration Number, if applicable

P. O. Box 6478

Address

(408) 264-4514

Telephone Number

San Jose, CA 95150-6478

Address

Enclosure ☒ Fee Payment

☒ Reply

☒ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unavoidable delay

☐

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is being:

☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

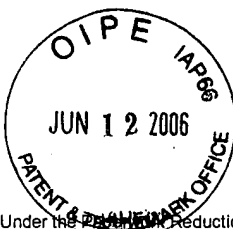
06/11/2006

Date

John J. Leavitt
Signature

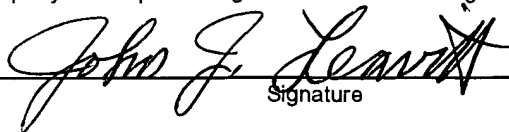
John J. Leavitt

Typed or printed name of person signing certificate



PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.


Signature

06/11/2006

Date

John J. Leavitt

Typed or printed name

18,440

Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

The undersigned was diagnosed as having severe Rheumatoid Arthritis in June of 1964. I have battled the disease for years by many different methods and medications. In late 2005 I experienced a flare-up of the disease that essentially rendered me immobile. During the interim between 1964 and the present the disease has destroyed my left hip and I am scheduled for a complete hip replacement surgery on June 14, 2006. In addition to the hip problem, my left arm and left hand began swelling shortly after the commencement of 2006 and required aspiration on two occasions, the second time required a visit to the emergency department of Good Samaritan Hospital.

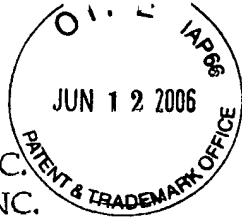
As I approach my 80th birthday, I have decided that it is time that I retire from the practice of patent and trademark law and to effect that decision I am presently in the process of transferring all my pending files to the firm of Jones, Tullar & Cooper, P.C., located at 2001 Jefferson Davis Hwy, Suite 1002, Arlington, VA 22202. I have spoken with both George M. Cooper and Douglas R. Hanscom at telephone number (703) 415-1500. I am no longer accepting new clients.

Attached are medical records copies that will explain my delay in paying the Issue Fee in application S/N 10/668,712 in greater detail.

Accordingly, it is respectfully requested that the application be revived and that the Issue Fee be applied so as to issue the patent from this application.

(Please attach additional sheets if additional space is needed.)

Casey, M.D., INC.
Stephen E. Green, M.D., INC.
Medical Partnership



NOV 22 2004

Joseph M. Casey, M.D.
Fellow, Society of Cardiac Angiography and Intervention
Clinical, Interventional Cardiology

Stephen E. Green, M.D.
Fellow American College of Cardiology
Clinical, Diagnostic and Preventive Cardiology

November 17, 2004

Melanie Martin, MD
50 East Hamilton Avenue
Suite 100
Campbell, CA 95008

RE: John J. Leavitt

Dear Dr. Melanie:

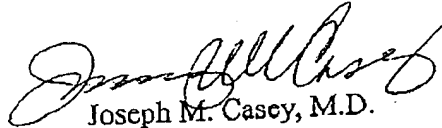
Enclosed for your records are copies of the echocardiogram and stress echocardiogram performed today on John Leavitt. His echo does demonstrate very mild left ventricular hypertrophy with low preserved global contractility and an ejection fraction of 69%. There is some calcification in the mitral annulus. The mitral valve E:A ratio is consistent with diastolic dysfunction. The LVH and diastolic dysfunction are consistent with hypertensive heart disease.

On the treadmill, he was able to complete 6 minutes on a Bruce protocol exercise treadmill test attaining a peak heart rate of 141 beats per minute. He did not experience any chest discomfort and there were no ST-T wave changes or arrhythmia during or after exercise. Echocardiography demonstrated normal wall motion at rest and appropriate augmentation of all segments with exercise. The stress echo is negative for ischemia at 99% of predicated maximum heart rate for age.

There was no evidence of aortic root dilation on the routine echo. He tells me that he had chest x-ray performed. If that study does not demonstrate any aortic abnormalities and I do not believe further workup is necessary at the present time. If the chest x-ray does show enlargement of the ascending or descending thoracic aorta, then a CT scan should be considered.

I appreciate very much the opportunity of evaluating this pleasant gentleman and will be happy to see him again in any time in future that you feel is appropriate.

Sincerely yours,



Joseph M. Casey, M.D.

JMC: 102

Joseph M. Casey, M.D., INC. - Fellow, Society of Cardiac Angiography and Intervention /Clinical, Interventional Cardiology

Stephen E. Green, M.D., INC. - Fellow, American College of Cardiology /Clinical, Diagnostic and Preventive Cardiology

2400 Samaritan Drive, Suite 200 San Jose, California 95124 Phone (408) 369-7500 Fax (408) 558-6940

DOPPLER ECHOCARDIOGRAM REPORT

Patient: John J. Leavitt

Date: November 17, 2004 Tape: E59-12

Ht./Wt./BP:

Referring M.D.:

Age:

Interpreted by: Joseph M. Casey, MD

Clinical Information: Assess left ventricular myocardial thickness and function.

2-D ANALYSIS (cm)			DOPPLER AND HEMODYNAMIC ANALYSIS					
			Gradient (mmHg)		Valve area			
			Max	Mean	(cm ²)	RA Pressure	5	mmHg
IVS (ed)	1.5					PA Press.(Syst.)	25	mmHg
IVS (es)	2.0					Stroke Volume	39	Cc
LVPW (ed)	1.3		AV			Heart Rate	68	b/min
LVPW (es)	2.0		MV			Cardiac Output	3	L/min
Aorta	3.6		TV			Qp/Qs		
LV (ed)	3.9		PV					
LV (es)	2.1		Regurgitation			P ½ time		
RV (ed)	3.5							
	Major	Minor		PISA	Severity			
LA	5.5	3.3	AV		Trace			
RA	5.0	3.8	MV		Trace			
LV volume (ed)	56		TV					
LV volume (es)	17		PV					
EF (%)	69%							

INTERPRETATION:

M-Mode and Two-dimensional echocardiography: All cardiac chamber sizes are within normal limits. There is mild concentric left ventricular hypertrophy with well preserved global contractility and ejection of 69%. There is calcification in the mitral annulus and mitral valves leaflets have normal mobility and excursion. The aortic valve is tricuspid with good mobility. The pulmonic and tricuspid valves are normal. No intracardiac masses or thrombi are seen. There was no pericardial effusion.

Doppler echocardiography: No gradients are measured across the aortic or mitral valves. Color flow study demonstrates trivial aortic and mitral insufficiency. The estimated right atrial mean pressure is 5 with a pulmonary systolic pressure of 25. The mitral valve E:A ratio is consistent with diastolic dysfunction.

IMPRESSION: Abnormal echocardiogram.

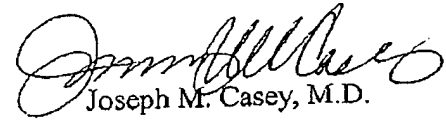
- Consistent with hypertensive cardiovascular disease.
 - Mild left ventricular hypertrophy.
 - Normal ejection fraction.

22

Doppler Echocardiogram Report
for: John J. Leavitt
November 17, 2004

Page 2

- (c) Diastolic dysfunction.
2. Mitral annular calcification.


Joseph M. Casey, M.D.

JMC: 102

cc: Melanie Martin, MD
50 East Hamilton Avenue
Suite 100
Campbell, CA 95008

JUN 12 2006

SELECTED AUTHORIZATION

Main Menu Short Cuts

Site: GATEWAY FAMILY MEDICAL CENTER

[Back](#) [Printer version](#)

Member:	LEAVITT,JOHN J 1677 PATIO DR / SAN JOSE, CA 95125 / 4082641788
Plan / HMO ID:	PACIFICARE/SECURE HORIZONS MED / 201298101
Date of Birth:	9/11/1926
PCP:	MELANIE MARTIN MD / SCCIPA
Date / Number:	12/28/2005-09687598
Expiration Date:	4/27/2006
Patient Requested?:	No
Referred From:	TINNY DOHN MD 1580 SO WINCHESTER BLVD, SUITE 202 / CAMPBELL, CA 95008 / (408) 364-7600
Referred To:	BRUCE J DREYFUSS MD Rheumatology 25 N 14TH ST #890 / SAN JOSE, CA 95112 / (408) 288-6623
Visits:	6
Diagnosis:	1) 714.0 - RHEUMATOID ARTHRITIS
Reason:	CONSULT AND FOLLOW UP TREATMENT ON RHEUMATOID ARTHRITIS
Status:	Approved
Decision Date:	12/28/2005 10:16:22 AM
Type:	Referral

Please note that the Expiration Date is the last date on which this Authorization can be used. After this date, the authorization will be automatically cancelled, even if all the authorized visits have not been used.

All payments are subject to the member's updated eligibility, covered benefits, Medical Policy and reimbursement schedules. This does not confirm eligibility. Payment of services is based on the member's participation in the Health Plan program at the time of visit.

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Osteoporosis Center of San Jose

25 North 14th Street, Suite 890
San Jose, CA 95112
Phone: 408-288-6694
Fax: 408-288-6698

January 19, 2006

Melanie Martin, M.D.
554 Blossom Hill Road
San Jose, CA 95123

JAN 24 2006

RE: Leavitt, John
573263344
DATE OF EVALUATION: January 19, 2006
DATE OF COMPARISON: April 05, 2004

Dear Dr. Martin:

Mr. John Leavitt returns to the Osteoporosis Center of San Jose for repeat bone mineral density determination. Since his previous examination, Mr. Leavitt has been supplementing his diet with an unspecified amount of calcium, and walking for 30 minutes everyday.

Bone mineral density was measured on a Lunar Prodigy Bone Densitometer.

Average bone mineral density of the lumbar spine is 123% of that achieved in the young adult male lumbar spine, T-score of +2.4. This represents a significant 10% increase in bone mineral density. Inspection of scan image reveals advancing degenerative changes are likely mainly responsible for most of this increase.

Average bone mineral density of the left proximal femoral neck is 123% of that achieved in the young adult male femoral neck region, T-score of +1.9. This is unchanged.

Average bone mineral density of the right proximal femoral neck is 98% of that achieved in the young adult male femoral neck region, T-score of -0.2. This is unchanged.

Average bone mineral density of the left mid-third radius is 81% of that achieved in the young adult male mid-third radius, T-score of -1.9. This is unchanged.

Mr. Leavitt is a 79-year-old male with a history of osteopenia. Since his previous examination, there has been no change in bone mineral density at any site tested.

Thank you for the confidence of this referral.

Sincerely,

Bruce J. Dreyfuss, M.D.
Medical Director
Certified Clinical Densitometrist

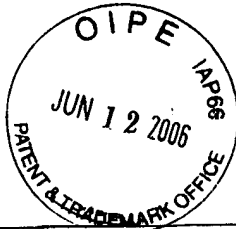
cc: Mr. John Leavitt
Bruce J. Dreyfuss, M.D.

☐ WNL-Inform Pt. _____

☐ Call pt. To Discuss Lab _____

☒ OK to File 77 7240

☐ Pt. Informed _____



San Jose Orthopedic Associates
Medical Corporation

Mark I. Gold, M.D., F.A.C.S.
Timothy O. Havland, P.A.C.

2505 Samaritan Drive, Suite 210, San Jose, CA 95124
Phone: 408 358 8300 Fax: 408 358 8301

March 28, 2006

Melanie Martin, M.D.
554 Blossom Hill Road
San Jose, CA 95123

RE: John Leavitt

Dear Dr. Martin:

Mr. Leavitt had an appointment to see me today for a new discussion regarding left hip arthroplasty. I had seen him last year for the same discussion, and at that time, we both decided that he was not symptomatic enough to require surgery. He is much more disabled at present and is ready to have his total hip.

On a more urgent basis, the patient is being seen for his left wrist. Although he was not referred here for the wrist, he informs me that four days ago he first noticed swelling in the volar forearm and wrist. The swollen area has become larger, the resulting mass more tense. The patient is now experiencing pain and numbness in the hand, which keeps him awake at night and is growing worse by the hour. He has no recollection of any trauma to the region and is not taking anticoagulants.

PHYSICAL EXAMINATION: Examination of the wrist reveals a mass lesion which begins just proximal to the carpal canal and extends to the ulnar border of the forearm. The ulnar artery is readily palpable superficial to the lesion, but the lesion itself is not pulsatile. The lesion abruptly ends at the proximal border of the carpal canal leading me to believe that it is subretinacular. It has a fluctuant character rather than nodular. The patient's fingers are deformed from his rheumatoid arthritis.

Examination of the hip was deferred today, but the patient is observed to walk with an obvious limp. On previous examinations, he was found to have limited motion and loss of function.

RADIOGRAPHIC DATA: New radiographs of the left hip were obtained today which show further collapse of the femoral head and advanced degenerative arthritis.

M

Page 2

Re: John Leavitt

Date: May 28, 2006

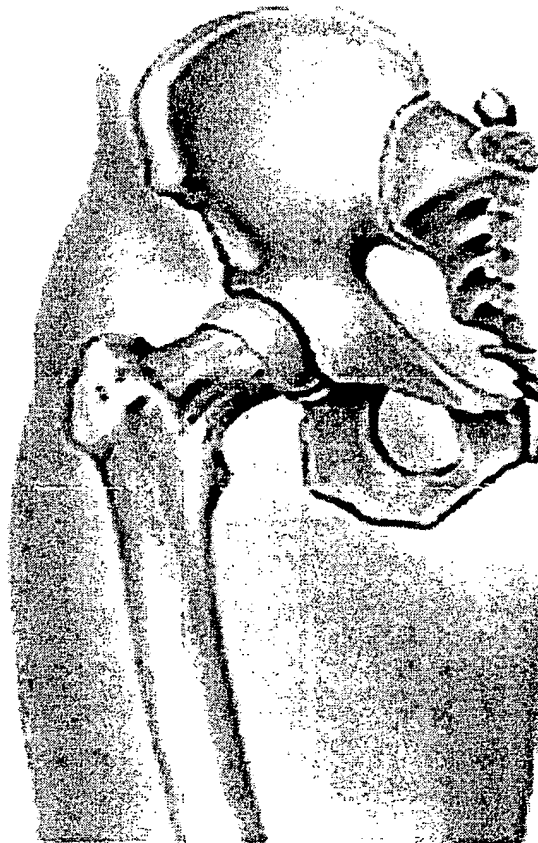
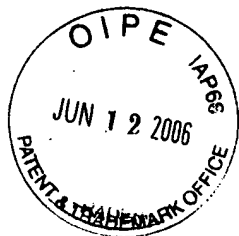
There is little question that Mr. Leavitt would benefit from a left total hip arthroplasty. I believe his functional loss is sufficient that he now wishes to undergo the surgery. His more immediate concern is his left wrist, and I am concerned as well. The rapid increase in size of the lesion suggests that it is fluid filled, but I am reluctant to aspirate it because of the proximity of the ulnar artery and my lack of knowledge from where the lesion arises. For this reason, I have hastily arranged an MRI scan for this afternoon to better define the lesion and guide me towards appropriate treatment. If it indeed is fluid, then I will aspirate it once I see the images and then decide on a more permanent means of decompressing the median nerve.

Sincerely,

Mark I. Golod, M.D.

MIG/rk

**TOTAL HIP REPLACEMENT:
A PATIENT'S GUIDE FROM DIAGNOSIS TO RECOVERY**



**To enroll in the Joint Replacement
Pre-operative instructional class,
contact
Good Samaritan Hospital's Arthritis and Joint Replacement Center
at 408-559-2180**

